

HOUSE BILL No. 1184

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-14-13-7.5; IC 31-17.

Synopsis: Custody disputes; grandparent visitation. Requires a court that finds evidence of domestic or family violence or child abuse or neglect by a family or household member against a child in a proceeding for custody, modification of custody, parenting time, or grandparent visitation to: (1) make a determination as to whether the child's siblings are in danger of being victims of domestic or family violence by the family or household member; and (2) file a report with the department of child services if the court finds a sibling is in danger of being a victim of domestic or family violence or child abuse or neglect. Provides that a court may not modify an order granting or denying grandparent visitation unless: (1) there is a substantial change in a factor concerning the best interests of the child; or (2) the order was issued at least 12 months before the petition requesting modification of the order was filed. Provides that a court: (1) may not grant grandparent visitation rights if visitation would be detrimental to the life, health, safety, or welfare of the child; and (2) may appoint a guardian ad litem or a court appointed special advocate, or both, in a proceeding concerning grandparent visitation. Requires a court to: (1) include certain written findings in its order if the court grants grandparent visitation; and (2) appoint a guardian ad litem or a court appointed special advocate upon the request of a party to a proceeding for grandparent visitation if the court determines the request is made in good faith and for a proper purpose.

Effective: July 1, 2007.

Reske

January 11, 2007, read first time and referred to Committee on Judiciary.

C
o
p
y



First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1184

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 31-14-13-7.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2007]: **Sec. 7.5. (a) If, in a proceeding for:**

4 **(1) custody of a child;**

5 **(2) modification of custody of a child; or**

6 **(3) parenting time with a child;**

7 **the court finds evidence of domestic or family violence or child**
8 **abuse or neglect by a family or household member against the**
9 **child, the court shall make a determination as to whether any**
10 **siblings of the child are in danger of being victims of domestic or**
11 **family violence or child abuse or neglect by the family or household**
12 **member.**

13 **(b) If a court makes a determination under subsection (a) that**
14 **a sibling is in danger of being a victim of domestic or family**
15 **violence or child abuse or neglect by a family or household**
16 **member, the court shall file a report with the department of child**
17 **services.**



C
o
p
y

SECTION 2. IC 31-17-2-18.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 18.5. (a) If, in a proceeding for:**

(1) custody of a child;

(2) modification of custody of a child; or

(3) parenting time with a child;

the court finds evidence of domestic or family violence or child abuse or neglect by a family or household member against the child, the court shall make a determination as to whether any siblings of the child are in danger of being victims of domestic or family violence or child abuse or neglect by the family or household member.

(b) If a court makes a determination under subsection (a) that a sibling is in danger of being a victim of domestic or family violence or child abuse or neglect by a family or household member, the court shall file a report with the department of child services.

SECTION 3. IC 31-17-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 2. (a) The court may grant visitation rights only if the court determines that visitation rights are in the best interests of the child. However, the court may not grant visitation rights if the court determines that visitation rights would be detrimental to the life, physical or mental health, safety, or welfare of the child.**

(b) In determining the best interests of the child under this section, the court may consider whether a grandparent has had or has attempted to have meaningful contact with the child.

(c) The court may interview the child in chambers to assist the court in determining the child's perception of whether visitation by a grandparent is in the best interests of the child.

(d) The court may permit counsel to be present at the interview. If counsel is present:

(1) a record may be made of the interview; and

(2) the interview may be made part of the record for purposes of appeal.

(e) If the court grants visitation to a grandparent under this chapter, the court shall include in its order written findings that visitation with the grandparent is:

(1) in the best interests of the child; and

(2) not detrimental to the life, physical or mental health, safety, or welfare of the child.

SECTION 4. IC 31-17-5-2.5 IS ADDED TO THE INDIANA CODE

C
o
p
y



1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2007]: **Sec. 2.5. (a) If, in a proceeding for visitation by a
3 grandparent under this chapter, the court finds evidence of
4 domestic or family violence or child abuse or neglect by a family or
5 household member against a child, the court shall make a
6 determination as to whether any siblings of the child are in danger
7 of being victims of domestic or family violence or child abuse or
8 neglect by the family or household member.**

9 **(b) If a court makes a determination under subsection (a) that
10 a sibling is in danger of being a victim of domestic or family
11 violence or child abuse or neglect by a family or household
12 member, the court shall file a report with the department of child
13 services.**

14 **SECTION 5. IC 31-17-5-7 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) Except as
16 provided in subsection (b), the court may modify an order granting or
17 denying visitation rights whenever modification would serve the best
18 interests of the child.**

19 **(b) A court may not modify an order granting or denying
20 visitation rights under this chapter unless:**

- 21 **(1) there is a substantial change in one (1) or more of the**
- 22 **factors listed in IC 31-17-2-8 or section 2(b) of this chapter; or**
- 23 **(2) the order was issued at least twelve (12) months before the**
- 24 **petition requesting modification of the order was filed.**

25 **SECTION 6. IC 31-17-5-11 IS ADDED TO THE INDIANA CODE
26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
27 1, 2007]: Sec. 11. Upon the request of a party to a proceeding under
28 this chapter, the court shall appoint:**

- 29 **(1) a guardian ad litem; or**
- 30 **(2) a court appointed special advocate;**

31 **if the court determines that the request is made in good faith and
32 for a proper purpose.**

33 **SECTION 7. IC 31-17-6-1 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. A court in a
35 proceeding under IC 31-17-2, IC 31-17-4, IC 31-17-5, this chapter, or
36 IC 31-17-7 may appoint a guardian ad litem, a court appointed special
37 advocate, or both, for a child at any time.**

38 **SECTION 8. IC 31-17-6-7, AS AMENDED BY P.L.68-2005,
39 SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2007]: Sec. 7. The court may order a guardian ad litem or
41 court appointed special advocate appointed by a court under this
42 chapter (or IC 31-1-11.5-28 before its repeal) to exercise continuing**

C
o
p
y



supervision over the child to assure that the:

(1) custodial or parenting time terms of an order entered by the court under IC 31-17-2 or IC 31-17-4 (or IC 31-1-11.5 before its repeal); **or**

(2) **visitation terms of an order granted under IC 31-17-5;**
are carried out as required by the court.

SECTION 9. IC 31-17-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) The court may order either or both parents of a child, **or a grandparent of a child in a proceeding under IC 31-17-5**, for whom a guardian ad litem or court appointed special advocate is appointed under this chapter to pay a user fee for the services provided under this chapter. The court shall establish one (1) of the following procedures to be used to collect the user fee:

(1) The court may order the clerk of the court to collect the user fee and deposit the user fee into the county's guardian ad litem fund or court appointed special advocate fund. The fiscal body of the county shall appropriate money collected as user fees under this chapter to the court having jurisdiction over custody actions for the court's use in providing guardian ad litem or court appointed special advocate services, including the costs of representation.

(2) The court may order either or both parents, **or a grandparent in a proceeding under IC 31-17-5**, to pay the user fee to the:

- (A) guardian ad litem program that provided the services; or
- (B) court appointed special advocate program that provided the services.

(3) The court may order either or both parents, **or a grandparent in a proceeding under IC 31-17-5**, to pay the user fee to the individual or attorney guardian ad litem that provided the services.

(b) Money remaining in a county's:

- (1) guardian ad litem fund; or
- (2) court appointed special advocate fund;

at the end of the county's fiscal year does not revert to any other fund.

(c) If the court orders either or both parents, **or a grandparent in a proceeding under IC 31-17-5**, to pay the user fee according to subsection (a)(2) or (a)(3), the program or the individual or attorney guardian ad litem shall report to the court the receipt of payment not later than thirty (30) days after receiving the payment.

C
o
p
y

